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**SCHIFF HARDIN & WAITE**

PATENT DEPARTMENT

6600 SEARS TOWER

233 SOUTH WACKER DRIVE

CHICAGO, ILLINOIS 60606

GROUP ART UNIT: 3714

IN RE APPLICATION OF:

Birkhoelzer et al.

SERIAL NO.:

09/994,309

EXAMINER: John Sotomayor

FILED:

November 26, 2001

CONFIRMATION NO.: 8682

TITLE: "APPARATUS AND METHOD FOR DETERMINING AN INDIVIDUALLY ADAPTED, NON-PREFABRICATED TRAINING UNIT"

**RESPONSE TO THE AUGUST 20, 2003 OFFICE ACTION**

Commissioner for Patents

P.O. Box 1450

Alexandria, Virginia 22313-1450

SIR:

Transmitted herewith is an amendment in the above-identified application.

☒ No additional fee is required.

The fee has been calculated as shown below.

**RECEIVED**

**JAN 27 2004**

TECHNOLOGY CENTER R3700

CLAIMS AS AMENDED						
	(2) CLAIMS REMAINING AFTER AMENDMENT		(4) HIGHEST NO. PREVIOUSLY PAID FOR	(5) PRESENT EXTRA	(6) RATE	(7) ADDITIONAL FEE
TOTAL CLAIMS	*6	MINUS	**20	X	( ) X 9.00 ( ) X 18.00	
INDEP. CLAIMS	*2	MINUS	3	X	( ) X 42.00 ( ) X 84.00	
Application amended to contain any multiple dependent claims not previously paid for.				( ) YES ( ) NO	( ) \$140.00 ( ) \$280.00 ONE TIME	
TOTAL ADDITIONAL FEE FOR THIS AMENDMENT						\$0.00

\* If the entry in Column 2 is less than the entry in Column 4, write "0" in Column 5.

\*\* If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20 write "20" in this space.

☒ Applicants petition the Commissioner of Patents and Trademarks to extend this time for response to the Office Action dated **August 20, 2003** for **two (2)** months so that the period for response is extended to **January 20, 2004**. A check in the amount of ~~\$240.00~~ **228.92** is attached to cover the cost of the extension. Any deficiency or overpayment should be charged or credited to deposit account No. 501519. A duplicate copy of this sheet is enclosed.

☒ A check in the amount of ~~\$240.00~~ **228.92** is attached.

☐ A check for \$ \_\_\_\_\_ accompanying IDS under 37 CFR 1.97(c) is attached

☐ A check for \$ \_\_\_\_\_ and Petition for Consideration of IDS under 37 CFR 1.97(d) is attached.

☒ The Commissioner is hereby authorized to charge any additional fees which may be required, or to credit any overpayment to account No. 501519. A duplicate of this sheet is enclosed.

When phoning re this application, please call (312) 258-5500.

**SCHIFF HARDIN & WAITE (Customer Number: 26574)**

Patent Department

BY Steven H. Noll (28,982)

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on January 19, 2004

Steven H. Noll

NAME OF APPLICANT'S ATTORNEY

Steven H. Noll

SIGNATURE

January 19, 2004

DATE

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RESPONSE TO THE AUGUST 20, 2003 OFFICE ACTION

#10  
1/30/04  
Allen

APPLICANTS: Birkhoelzer et al. GROUP ART UNIT: 3714  
SERIAL NO.: 09/994,309 EXAMINER: John Sotomayor  
FILED: November 26, 2001 CONFIRMATION NO.: 8682  
TITLE: "APPARATUS AND METHOD FOR DETERMINING AN  
INDIVIDUALLY ADAPTED, NON-PREFABRICATED TRAINING  
UNIT"

**ATTN: MAIL STOP AF**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

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S I R:

Applicants and their counsel have carefully reviewed the final rejection dated August 20, 2003, but believe the claims in their present form are patentable over the teachings of the references relied upon by the Examiner in the final rejection. Reconsideration of the application in view of the following arguments in support of patentability is therefore respectfully requested.

**REMARKS**

In the Office Action dated August 20, 2003, the previous rejection of claims 1-4, as being anticipated under 35 U.S.C. §102(e) by Cook et al., was maintained.

In response to that rejection when made in the March 24, 2003 Office Action, Applicants argued (in a response filed July 28, 2003) that the Cook et al. reference does not disclose formulating a customized training program that is composed of a number of previously stored training modules. In response, the Examiner cited column 5, lines 54-65 of the Cook et al. reference, which the Examiner stated provides a teaching that new training modules can be composed from previously